

view of Perkins and U.S. Patent Publication No.
2001/0007308 A1 (Glassman).

Claims 1, 2, 13 and 14 are the independent claims.
Claims 1 and 13 claim a package for containing and
displaying at least one article. Claims 2 and 14 claim a
blister package for at least one article.

In addressing obviousness, the U.S. Supreme Court
recently stated in KSR Int'l. Co. v. Teleflex Inc. that "a
patent composed of several elements is not proved obvious
merely by demonstrating that each of its elements was,
independently, known in the prior art. Although common
sense directs one to look with care at a patent application
that claims as innovation the combination of two known
devices according to their established functions, it can be
important to identify a reason that would have prompted a
person of ordinary skill in the relevant field to combine
the elements in the way the claimed new invention does.
This is so because inventions in most, if not all, instances
rely on building blocks long since uncovered, and claimed
discoveries almost of necessity will be combinations of
what, in some sense, is already known." KSR Int'l. Co. v.
Teleflex Inc., 127 S. Ct. 1727, 82 USPQ2d 1385 (2007).

Applicants respectfully submit that if the claimed
self-indexing structure was so well-developed in the art or
obvious to one skilled in the art that an explicit teaching

or suggestion thereto would be present in the art.

Applicants respectfully submit that this is not the case in the present instance as evident when considering the teachings of the applied references as a whole.

Essentially as to the above rejections under 35 U.S.C. §103, the Examiner is relying on Perkins for teaching a depth of a product enclosure which is comparable to the depth of a support structure; on Humphrey and Udwin, individually, for teaching a support structure with a closed bottom wall with projections therefrom; and on Glassman for teaching two feet on a bottom surface of the packaging, in order to support the assertion of obviousness as to applicants' claimed package. Applicants respectfully submit that when the teachings of the references are taken as a whole, e.g., in particular as to the differences between the applied art and claimed subject matter, that no suggestion is provided to modify the prior art structure to obtain applicants' invention as claimed.

More particularly, Humphrey shows a package design having a base which extends outward a distance beyond the outermost extension of any other portion of the package body. The base would serve to allow the package to stand unaided in an upright position. Humphrey does not disclose a depth of at least a portion of a first outward projecting portion equal to a greatest depth of an outermost projecting

portion of an at least one additional outward projecting portion so that the package is self-indexing when the package is aligned with one or more packages having the same structure. Humphrey provides no teaching as to providing a package which is self-indexing. In fact, due to the extension of the base beyond the other portions of the package as shown in Humphrey, the package would not be self-indexing since pressure on the back of the package to push the package forward would continue to push the top portion forward when the base stopped, thus, tipping the top portion of the package forward and causing the package to be out of alignment with the support surface and other packages. This problem is solved by applicants' invention as claimed.

Perkins does not make up for the shortcomings of Humphrey. Perkins is applied by the Examiner as teaching comparable depths for a product area and a support structure. Perkins discloses a display package adapted to stand alone on a horizontal surface (column 4, lines 9-10). While Perkins states that the depth of the support structure 22 should be comparable to the depth of the product enclosure 20 to prevent the package from falling over, no teaching or suggestion is set forth to provide a bottom portion or foot equal in depth to an additional projecting portion of the package so that the package is self-indexing, i.e., provides predetermined spacing between it and another

aligned package (see applicants' specification at page 5, lines 4-6) which is a separate structural feature from providing a package able to stand alone. Perkins does not recognize any problem as to self-indexing or desire to provide a structure which is self-indexing. As to the described ability to stand alone or to take up minimal shelf space, each of these ends can be achieved by a structure as shown in Humphrey wherein the base portion allows the package to stand alone and yet the base portion extends beyond the article portion as in Figure 3 of Perkins.

It would not have been obvious to one of ordinary skill in the art to modify Humphrey by constructing the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion in order to provide a self supporting package while not making the base excessively deep as stated by the Examiner. (See page 3 of the official action).

Further, Perkins does not teach a closed bottom, but rather teaches that the display package 10 is vertically supported by bottom edges 60, 64 and 66 alone (column 3, lines 56-58) and that the openness of the bottom is desirable as providing a convenient place to grasp the blister pack 18 to pull it away from panel 12 to open the package thereby eliminating the need for an auxiliary pull-

tab (column 3, lines 65-68). Since neither Perkins nor Humphrey provide any teaching or suggestion as to providing a structure which is self-indexing, applicants respectfully submit that changing the bottom structure and the relationship between the upper portion and lower portion to provide a distinct added function, i.e., self-indexing, is not taught or recognized by Perkins or Humphrey. It would not have been obvious to modify Humphrey, as suggested by the Examiner, by construing the depth of at least a portion of the first outward projecting portion being equal to a greatest depth of an outermost projecting portion of the at least one additional outward projecting portion. The structure of the invention as claimed provides for self-indexing of the package when the package is aligned with other like packages.

Since neither Humphrey nor Perkins provide any teaching regarding self-indexing, and in view of the differences in structure, no motivation is provided to suggest to one skilled in the art to modify the structure of Humphrey or Perkins to obtain applicants' claimed package in the absence of hindsight.

Accordingly, applicants respectfully submit that Humphrey in combination with Perkins does not render the invention as claimed obvious within the meaning of 35 U.S.C.

§ 103(a). Thus, withdrawal of the § 103 rejection thereover is respectfully requested.

Udwin is applied in combination with Perkins and Glassman to reject claims 1-4, 7-12, 15 and 16 under 35 U.S.C. § 103(a). Udwin discloses a package having a bottom portion which extends outward further than any other portion extending outward, i.e., the bottom portion has a depth greater than the depth of the other outward extending portion. As such, Udwin does not disclose the depth of an at least a portion of the first outward projecting portion as being equal to a greatest depth of an outermost projecting portion of the at least one additional outward projecting portion so that the package is self-indexing when the package is aligned with one or more packages of like structure.

Udwin is further applied in combination with Perkins and Glassman. Perkins does not make up for the shortcomings of Udwin on the same basis as set forth above with respect to the combination of Perkins with Humphrey. Further, Glassman does not make up for the shortcomings of Udwin and Perkins. Glassman discloses a package having a bottom portion which extends outward further than any other portion extending outward, i.e., the bottom portion has a depth greater than the depth of the other outward extending

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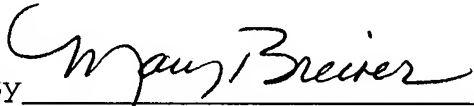
portion. The teaching of feet on the bottom of the package is inadequate to make up for the shortcomings of the other references.

Accordingly, the combination of Udwin, Perkins and Glassman does not teach or suggest the invention as claimed. Udwin in combination with Perkins and Glassman does not render the invention as claimed obvious within the meaning of 35 U.S.C. §103(a). Withdrawal of the §103 rejection based thereon is respectfully requested.

Reconsideration and allowance of the claims is respectfully urged.

Respectfully submitted,

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